

BILL NO. G-72-06-22

GENERAL ORDINANCE NO. G- Withdrawn

AN ORDINANCE pertaining to obscene matter.

WHEREAS, freedom of speech is one of the fundamental constitutional freedoms; and

WHEREAS, the preservation and exercise of such freedom are essential to the maintenance of a democratic society; and

WHEREAS, purveyors of obscene matter have sought to exploit the right to freedom of speech by using said right as a screen for the dissemination within the city limits of the City of Fort Wayne, Indiana, of matter which adds nothing to the store of human knowledge or ideas but which is intended to, and does, appeal to the basest desires of those to whom it is exhibited; and

WHEREAS, the dissemination of such matter is not prohibited by the Constitution of either the United States or the State of Indiana; and

WHEREAS, the dissemination of such matter is an activity against which a society may protect itself just as it may protect itself against other dangerous and loathsome activities;

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. Definitions.

As used in this Ordinance:

- (a) "Obscene" means that to the average person, applying contemporary standards, the predominant appeal of the matter, taken as a whole, is to prurient interest, i. e., a shameful or morbid interest in nudity, sex, or excretion, which goes substantially

Richard B. Allen

beyond customary limits of candor in description or representation of such matters and is matter which is utterly without redeeming social importance.

(b) "Matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines or materials.

(c) "Person" means any individual, partnership, firm, association, corporation, or other legal entity.

(d) "Distribute" means to transfer possession of, whether with or without consideration.

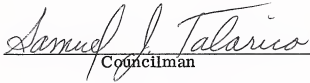
(e) "Knowingly" means having knowledge that the matter is obscene.

SECTION 2. Every person within the city limits of the City of Fort Wayne, Indiana, who knowingly prepares, publishes, prints, exhibits, distributes, or offers to distribute, or has in his possession with intent to distribute or to exhibit or offer to distribute, any obscene matter, is guilty of a misdemeanor.

SECTION 3. The penalty upon conviction of such misdemeanor shall be a fine not in excess of \$500.00 and/or confinement in the county jail for a period not to exceed six months.

SECTION 4. If any section, clause, sentence, paragraph, part or provision of this Ordinance shall be held invalid by any court, it shall be conclusively presumed that this Ordinance would have been passed by the Common Council without such invalid section, clause, sentence, paragraph, part or provision.

SECTION 5. This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor and legal publication thereof.



Councilman

APPROVED AS TO FORM
AND LEGALITY, _____

CITY ATTORNEY

Date:

Passed (LOST) by the following vote:

Date _____ CITY CLERK _____

ATTEST: (SEAL)

CITY CLERK

MAYOR

WITHDRAWAL OF GENERAL ORDINANCE NO. G-72-06-22

On motion by Councilman Talarico, Bill No. G-72-06-22
seconded by Hinga

AN ORDINANCE pertaining to obscene matter.

that this ordinance No. G-72-06-22 is hereby withdrawn for no further action
by the Common Council of the City of Fort Wayne, on Bill No. G-72-06-22.

PASSED (LOST) by the following vote:

AYES 9 NAYS 0 ABSTAINED _____ ABSENT _____ to-wit

Burns	<u>✓</u>	_____	_____	_____
Hinga	<u>✓</u>	_____	_____	_____
Kraus	<u>✓</u>	_____	_____	_____
Muckols	<u>✓</u>	_____	_____	_____
Moses	<u>✓</u>	_____	_____	_____
Schmidt, D.	<u>✓</u>	_____	_____	_____
Schmidt, V.	<u>✓</u>	_____	_____	_____
Stier	<u>✓</u>	_____	_____	_____
Talarico	<u>✓</u>	_____	_____	_____

Date: July 25, 1972

City Clerk

ATTEST: (SEAL)

City Clerk

Presiding Officer